

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte Dieter Arabin

Application No. 10/031,322

MAILED

MAY 18 2007

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 19, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

**EXAMINER'S ANSWER**

**Evidence of Record**

On May 15, 2006, an Examiner's Answer was mailed in response to the Appeal Brief received February 27, 2006. A review of the Examiner's Answer reveals that it is not in compliance with the Manual of Patent Examining Procedure (MPEP). In the "Evidence Relied Upon" (section 8) the Examiner identifies evidence or prior art not specifically relied upon in the rejection of the claims on appeal. In accordance with MPEP §1207.02, the "Evidence Relied Upon" (section 8) should include:

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**(8) Evidence Relied Upon**

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Correction of the record is required.

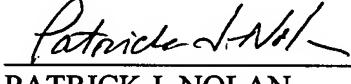
Additionally, the Examiner should ensure that a copy of all references identified as prior art is scanned into IFW for consideration by the Board of Patent Appeals and Interferences.

Accordingly, it is

**ORDERED** that the application is returned to the examiner for:

- 1) issue and mail a PTOL-90 citing the references used to reject the claims on appeal; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

  
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PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(703)308-9797

PJN/dpv

Lerner, Greenberg & Stemer, LLP  
P.O. Box 2480  
Hollywood, Fl 33022-2480